

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

MIZUNO et al.

Serial No.: 10/581,565

Filed: November 14, 2006

Atty. File No.: 5426SI-2

For: "FATIGUE EVALUATION APPARATUS,
FATIGUE EVALUATION METHOD, AND
APPLICATION THEREOF"

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)
) Group Art Unit: 1657

) Examiner: T.M. Gough

) Confirmation No.: 6198

)
) RESPONSE TO RESTRICTION
) REQUIREMENT

Submitted via EFS-Web

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit this Response to address the Restriction Requirement having a mailing date of April 30, 2009. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970.

Applicants elect Group II, Claims 8-15, to prosecute in the present application. Applicants reserve their right to prosecute claims in the non-elected groups in future divisional applications.

Applicants respectfully submit that where a single field of a search thoroughly covers all of the claims in an application, different classifications in the Patent and Trademark Office should not be controlling. It is respectfully submitted that in this case the restriction requirement only serves to increase the expense to Applicants and to the Patent and Trademark Office. As noted in the Commissioner's Notice of April 9, 1975, 930 O.G. 450 and M.P.E.P. §803, where search and examination of an entire application can be made without serious burden, the Examiner is encouraged to examine on the merits, even if it includes claims to distinct or independent inventions.

Respectfully submitted,

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5/20/09